

Remarks

The Applicants thank the Examiner for this thorough review of the application. Claims 1-25 are pending in this application. New claims 26-32 are being added. The Examiner's reconsideration of this application is respectfully requested in view of the foregoing amendments and the following remarks.

Rejection Of Claims 1-16 and 22-25 Under 35 U.S.C. § 112, Paragraph 2

Claims 1-16 and 22-25 are rejected under 35 U.S.C. § 112, paragraph 2, as being indefinite. These claims have been amended to provide antecedent basis as suggested by the Examiner. Thus, Applicants request that this rejection be withdrawn.

Rejection Of Claims 1-25 Under 35 U.S.C. § 102(b) to Apps '461/'572

Claims 1-25 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,561,461 and its continuation patent US Patent No. 5,842,572 both to Apps, an inventor of the present invention. Applicants respectfully traverse this rejection.

Claim 1 has been amended to further define the handle structure. This claim is believed to be patentably distinguished over these Apps references.

Claim 8 includes "a plurality of columns disposed along the sidewalls and end walls for connecting the band member to the floor member." On the other hand, Apps '461/'572 does not have any structure along its end walls that would meet such limitation. Thus claim 8 is not anticipated by these references.

Column 17 has "columns including first and second opposed inner surfaces defining a corresponding vertical recess on the column outer surface." Apps '461/'572 does not appear to have columns having first and second opposed inner surfaces, or defining a corresponding vertical recess on the column outer surface. The Examiner is requested to indicate those elements/areas in the prior art to which his rejection refers. Thus claim 17 is not believed to be anticipated.

Claim 23 has "an upper wall member...with spaced apart inwardly extending projection

members, and bottle contact surfaces between the projection members.” Apps ‘461/’572 does not have bottle contact surface between its pylons. Instead, it has windows 38. Thus claim 23 is not anticipated.

Likewise, claim 24 has “an upper wall member...having an interior surface with spaced apart inwardly extending nesting projections . . . and concave bottle contact surfaces between the nesting projections”. Apps ‘461/’572 does not have bottle contact surfaces between its pylons. It has windows 38. Claim 24 also includes a lower wall structure having “support members . . .including first and second opposed concave inner surfaces defining a corresponding recess on the column outer surface.” What the Examiner refers to as the lower wall of Apps ‘461/’572 does not include such claimed features. Thus claim 24 is not anticipated.

With regard to his rejection of claim 25, the Examiner does not suggest that the bottle case of Apps ‘461/’572 would nest within another bottle crate as claimed. The Examiner did not specifically address the limitations of this claim, and Applicants believe that this claim is patentable distinguished over Apps ‘461/’572.

The applicable dependent claims are believed to be in a condition for allowance based on the patentability of their base claims as noted above.

Rejection Of Claims 8, 11-18, and 20-25
Under 35 U.S.C. § 102(b) to Apps ‘748

Claims 8, 11-18, and 20-25 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,184,748 to Apps, an inventor of the present invention. Applicants respectfully traverse this rejection.

Independent claims 8 and 17 have been amended to more particularly point out the subject matter of the present invention regarding the relationship between the columns and the projections/inwardly-extending portions.

Claim 23 is not anticipated by Apps ‘748. Claim 23 includes “a lower wall portion disposed along a plane offset inwardly from the projection members...”. Apps’ 748, on the other hand, has columns 108 with a middle face 140 which is flat and is not disposed “along a plane offset inwardly from the projection members.” If Apps’ 748 has projection members, they are co-planar with its columns.

Claim 24 has “support members vertically aligned with the nesting projections of the upper wall member.” Apps ‘748 does not show such language.

Claim 25 has “support members vertical aligned with the inwardly-extending portions of the upper wall member.” Apps ‘748 does not show such language.

The applicable dependent claims are believed to be in a condition for allowance based on the patentability of their base claims as noted above.

**Rejection Of Claims 1, 2, and 4-7
Under 35 U.S.C. § 102(b) to Hammett ‘477**

Claims 1, 2, and 4-7 have been rejected as anticipated by Hammett ‘477 (Hammett). Applicants respectfully traverse this rejection.

Claim 1 has been amended to further define the handle structure, and is believed to distinguish over Hammett. The dependent claims are believed to be allowable as they depend from claim 1.

**Rejection Of Claims 1-7, 9, 10, 12 and 19 Under
35 U.S.C. § 103(a) over Apps ‘748 in view of Apps ‘572**

Claims 1-7, 9, 10, 12 and 19 have been rejected under 35 U.S.C. § 103(a) over Apps ‘748 in view of Apps ‘572, both by an inventor of the present invention. Claim 1 has been amended to further define the handle structure, and is not believed to be obvious over these Apps references. The dependent claims are believed to be allowable as they depend from claim 1.

New Claims

Applicants have added new claims which are believed to be in a condition for allowance. No new matter has been added.

Conclusion

Applicants believe that the application is now in a condition for allowance and a Notice of such allowance is respectfully solicited. Should the Examiner have any questions or if a telephone conference will in any way expedite further consideration of this application, the Examiner is encouraged to contact the undersigned at his convenience.

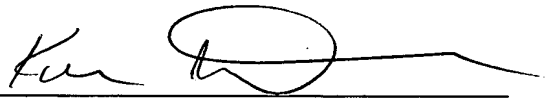
A check in the amount of \$ 1392 is enclosed (\$930 to cover the petition fee) and (\$462 to cover the 7 additional claims including 4 independent claims). Any fee shortages in connection with this filing can be charged to Deposit Account 50-1984, as well as any overpayments can be credited to the same account.

Respectfully submitted,

WILLIAM P. APPS et al

Date: February 19, 2003

By



Konstantine J. Diamond, Reg. No. 39,657
4010 E. 26th St.
Los Angeles, CA 90023
Phone: 323-262-5145
Fax: 323-269-8506

Version showing marked up changes

1. (Amended) A nestable crate for bottles, said crate comprising:

a floor portion having a floor top surface and a floor bottom surface, the floor top surface including a plurality of bottle support areas for supporting bottles; and

a low-depth wall structure connected to the floor portion and forming a containment area therewith, the wall structure having a peripherally extending upper band portion having an interior surface with bottle contact portions and an exterior surface, the low-depth wall structure further having a single-walled lower wall construction comprising adjacent column members which extend between the upper band portion the and floor portion, the wall structure including sidewalls and end walls, and adjacent column members having [concave] facing surfaces extending inwardly into the containment area, wherein at least one of the sidewalls and end walls includes a handle opening extending therethrough defined by an upper handle member and a lower handle member, with at least one column member from the lower handle member to the floor portion,

wherein the bottle contact portions, bottle support areas, and the facing surfaces define a plurality of bottle receiving pockets extending around the periphery of the wall structure for maintaining bottles in a vertically upright manner.

2. (Amended) The crate of claim 1, wherein interior surface of the upper band portion includes [member has an inner surface with] a plurality of nesting members aligned with corresponding column members, such that an outer surface of the column members are configured to receive the nesting members of a like crate when in a nesting orientation.

8. (Amended) A low-depth nestable crate for holding bottles, said crate having a low-depth wall structure having sidewalls and end walls, said crate comprising:

a floor member having a floor top surface and a floor bottom surface;

a band extending around the periphery of the crate and spaced above the floor member for preventing the bottles from tipping, the band further having spaced-apart interior projections, the inner surface of which defines a first plane; and

a plurality of columns disposed along the sidewalls and end walls for connecting the band [member] and the floor member, the columns being spaced apart and having a nesting

window disposed therebetween, the columns having an interior surface and an exterior surface, the columns projecting offset inwardly from the band such that adjacent pair of columns define a bottle receiving area for containing one of the bottles therein, the interior surface of each column having a pair of opposed surfaces meeting at a centrally disposed surface which defines a second plane offset from the first plane, the exterior surface of the column having a recess to matingly receive corresponding projections from a similar crate nested therebelow.

12. (Amended) The crate of claim 11, wherein the interior surfaces of the columns have a cylindrically concave surface, and wherein the cylindrically concave surface and its adjacent upright concave inner surface have a similar curvature radius.

17. (Amended) A low-depth nestable bottle crate comprising:
a floor member having a top surface and a bottom surface, the top surface having a plurality of bottle support areas for supporting an array of bottles in an upright manner;
a generally upright band member spaced apart from the floor member and extending around the periphery of the crate, the band member having an upper surface, a lower surface, an exterior surface, and an interior surface, the interior surface having a single walled bottle contact area corresponding to the bottle support areas of the floor member, the interior surface further having upper inwardly-extending portions between adjacent contact areas; and
a plurality of spaced-apart nesting columns connecting a periphery of the floor member with the lower surface of the band member, the columns including first and second opposed inner surfaces defining a corresponding vertical recess on the column outer surface, wherein the first inner surface of one of the plurality of columns, an adjacent second inner surface from an adjacent column, one of the bottle support areas and bottle contact areas define a bottle receiving pocket for supporting a bottle in an upright orientation, wherein the upper inwardly-extending portions and the columns have a transition ledge therebetween.

21. (Amended) The crate of claim 17 wherein the band member includes side wall portions and end wall portions, and wherein the [side] end wall portions of the band member include a handle opening formed therein.

22. (Amended) The crate of claim 17 wherein the [corner] bottle support area oriented at a corner of the floor member is configured such that more than half of the bottle circumference is contained within the bottle support area.

23. (Amended) A low-depth nestable bottle crate comprising:

a floor member having a top surface with a plurality of bottle support areas for supporting an array of bottles thereon;

an upper wall member spaced apart from the floor member and extending around the periphery of the crate, the upper wall member having an exterior surface, and also having an interior surface with spaced apart inwardly extending projection members, and bottle contact surfaces between the projection members; and

a lower wall portion disposed along a plane offset inwardly from the projection members and having a plurality of support members for connecting a periphery of the floor member with a lower surface of the upper wall member, the support members aligned with the a nesting projection[s] of the upper wall member, the support members including first and second opposed inner surfaces defining a corresponding recess on the column outer surface for receiving the nesting projection of a like crate when nested, the lower wall structure having a window disposed between adjacent support members.

24. (Amended) A nestable bottle crate comprising:

a floor member having a top surface with a plurality of bottle support areas for supporting an array of bottles thereon;

an upper wall member spaced apart from the floor member and extending around the periphery of the crate, the upper wall member having an upper edge, a lower edge, an exterior surface, and also having an interior surface with spaced apart inwardly extending nesting projections, and concave-bottle contact surfaces between the nesting projections; and

a lower wall structure inwardly offset from the upper wall member and having a plurality of support members for connecting the floor member with a lower surface of the [band] upper wall member, the support members vertically aligned with the nesting projections of the upper wall member, the support members including first and second opposed concave inner surfaces defining a corresponding recess on the column outer surface for receiving the nesting projection of a like crate when nested, the lower wall structure having a window disposed

between adjacent support members.

25. (Amended) A nestable crate assembly comprising:

(a) a first bottle crate comprising:

a floor having a top surface with a plurality of bottle support areas for supporting an array of bottles thereon;

an upper wall member spaced apart from the floor [member] and extending around the periphery of the crate, the upper wall member having an upper edge, a lower edge, an exterior surface, and also having an interior surface with spaced apart inwardly-extending portions, and bottle contact surfaces between the inwardly-extending portions; and

a lower wall structure inwardly offset from the upper wall member and having a plurality of support members for connecting a periphery of the floor [member] with the upper wall member, the support members vertically aligned with the inwardly-extending portions of the upper wall member, the support members including first and second opposed inner surfaces defining a corresponding recess on the column outer surface for receiving inwardly-extending portions of a like crate when nested, the lower wall structure having a window disposed between adjacent support members; and

(b) a second bottle crate comprising:

a plurality of generally vertical sidewalls defining a wall structure having an upper surface, outer surface and inner surface;

a floor attached to the wall structure and defining a compartment therewith,

wherein when the first bottle crate is nested within the compartment of the second bottle crate, the lower wall structure of the first bottle crate is disposed within the compartment of the second bottle crate such that the lower edge of the upper wall member of the first bottle crate rests upon the upper surface[s] of the sidewalls of the second bottle crate, and wherein the exterior surface of the upper wall member of the first bottle crate is generally co-planar with the outer surface of the wall structure of the second bottle crate.